IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 75-DBA of 1997

Date of Decision :- September 21, 2006.

The State of Punjab ....APPELLANT

VERSUS

Sukhmander Singh ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE BALDEV SINGH

Present:- Mr. S.S.Randhawa, Senior D.A.G. Punjab. , Advocate

Mr. D.S. Brar, Advocate for the respondent.

MEHTAB S.GILL, J.

This is an appeal filed by the State against the judgment/order dated 12.1.1996 of the Sessions Judge, Faridkot whereby he convicted Sukhmander Singh- respondent under Section 498-A IPC and sentenced him to undergo rigorous imprisonment for 2 years and 6 months. Further to pay a fine of Rs. 3000/- or in default of payment of fine to undergo rigorous imprisonment for 3 months. State has filed an appeal against the acquittal of the respondent under Section 302 IPC.

The case of the prosecution is that Sarwan Singh complainant married his daughter Sandeep Kaur with the accused after giving sufficient dowry according to his capacity. About a month prior to the occurrence, Sandeep Kaur complained to her parents that she was being maltreated. Her parents went to the house of her in-laws and brought her back. On 28.4.1993 they left Sandeep Kaur in her in-laws house and asked Sukhmander Singh, her husband not to maltreat her. On the intervening night of 1/ 2.5.1993, one Jaskaran Singh, who was instrumental in getting Sandeep Kaur married with the respondent, told him that Sandeep Kaur had been given poison by her husband and had been admitted by him in Medical College Hospital at Faridkot, where she died. Sarwan Singh along with others went to Medical College Hospital at Faridkot. ASI Major Singh, who was there, recorded his statement Ex.PJ. On the basis of the statement, FIR Ex.PJ/2 was recorded.

The prosecution to prove its case brought into witness box Dr. Ashok Chanana as PW1, HC Balwant Singh as PW2, Constable Malkiat Singh as PW3, Dharam Singh Draftsman as PW4, Sarwan Singh complainant as PW5, Jaskaran Singh as PW6, ASI Major Singh as PW7 and P.H.G. Jarnail Singh as PW8.

We have heard the learned counsel for the parties and perused the impugned judgment and the record with their assistance.

Sarwan Singh PW5 has stated in his testimony before the Court what he had stated in the FIR. He has further stated that he was told by Jaskaran Singh PW6 about the death of his daughter. The Chemical Examiner gave his report Ex.PD and opinion Ex.PE of Dr. Ashok Chanana

PW3, is that the cause of death of Sandeep Kaur was chlorocompound group of insecticide which was present in the viscera of the deceased and was sufficient to cause death in the ordinary course of nature.

The death of Sandeep Kaur had taken place in the house of the accused. In his statement under Section 313 Cr.P.C., the respondent has stated that Sandeep Kaur was mentally ill and disturbed and she had taken poison at her own. On the day of occurrence, he was working in his field, where he learnt that Sandeep Kaur had taken some wrong medicine. He brought her from the village and got her admitted in Medical College Hospital at Faridkot for treatment. Information was sent to the parents of Sandeep Kaur and also to the police. The learned trial Court has believed the testimony of Roop Singh DW2 and Sukhdev Singh DW3. They had stated that Sandeep Kaur had taken some medicine and was taken to Medical College Hospital at Faridkot. The trial Court further stated that these witnesses did not have any motive to depose falsely. These witnesses stood by their statements even in cross-examination. Accused was acquitted of the charge under Section 302 IPC, but was found guilty of the charge under Section 498-A IPC.

After scrutinizing the evidence carefully and the judgment of the learned trial Court, we have no hesitation in coming to the conclusion that deceased Sandeep Kaur consumed poison and committed suicide. This she did as there was a demand of dowry, which could not be fulfilled by her parents. The report Ex.PD of Chemical Examiner and opinion Ex.PE states that “cause of death was cholorocompound group of insecticide”. The learned trial Court did believe the defence witnesses

that some medicine was taken by the deceased, but wrongly ignored the report of the Chemical Examiner.

Against his conviction under Section 498-A IPC, the respondent Sukhmander Singh has not filed an appeal. The judgment of the learned trial Court has attained finality. He being reconciled with the order of the learned trial Court.

From the evidence on record and the accused being convicted under Section 498-A IPC, it is learnt that the learned trial Court came to the conclusion that there was a demand of dowry. It was this demand, which led to her death. We have no hesitation in concluding that Sandeep Kaur committed suicide and respondent is liable to be convicted under Section 306 IPC, also.

Respondent is convicted under Section 306 IPC and sentenced to undergo 2 years and 6 months of rigorous imprisonment. Both sentences under Section 498-A and 306 IPC shall run concurrently.

With the above observations, appeal of the State is partly allowed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

September 21, 2006
SKA

WHETHER TO BE REFERRED TO REPORTER? YES/NO